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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/010,993	11/12/2001	Gerard Alan Lynch	20228-200501	6492
37509	7590	06/19/2006	EXAMINER	
DECHERT LLP			SMITH, JEFFREY A	
P.O. BOX 10004			ART UNIT	
PALO ALTO, CA 94303			PAPER NUMBER	
			3625	
DATE MAILED: 06/19/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/010,993	Applicant(s) LYNCH, GERARD ALAN	
	Examiner Jeffrey A. Smith	Art Unit 3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 April 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 April 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>4/5/06</u> . | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Response to Amendment

The Response filed April 5, 2006 has been entered and considered.

Claims 1-10 are pending.

Claim 1 is currently amended.

An action on the merits follows.

Drawings

The drawings were received on April 5, 2006. These drawings are approved.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 3-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point

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out and distinctly claim the subject matter which applicant regards as the invention.

In claims 3-5: it is unclear whether the recited "pictures" in the phrase "set of pictures" is a reference to the "selectable images". It appears that Applicant has intended that "a set of pictures" should be read as --a set of selectable images--. This interpretation is, however, speculative based upon the full disclosure.

For examination purposes, the Examiner has considered references to "set of pictures" to read as --set of selectable images--. Applicant should comment on the intent of these references and amend the claims consistent with the intent.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 1-3, and 5-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Trubey et al. (US 2002/0077930 A1) in view of Hess et al. (U.S. Patent No. 6,058,417).

Trubey et al. discloses a method of delivering, in the form of selectable images, a plurality of items of a selected seller to a browser of a client computer system (par. 0008).

The method comprises receiving, at an auxiliary server (par. 0061), a request from a client browser for a main program (par. 0095); and delivering the main program to the requesting client browser (par. 0095).

The Examiner notes a "dynamic pallet" embodiment which requires that the browser support Java, Flash, Microsoft Common Language Runtime, and/or DHTML (par. 0092). In this embodiment, a main program is configured to received seller specific information ("information in the request code placed therein by the content site": par. 0095) and to load and activate one or more modules including a picture displaying module for displaying selectable images (par. 0070). The picture displaying module is configured to obtain a set of pictures of the selected seller's items, based on the received seller specific information (par. 0093), to moveably display, on the client browser, a set of pictures, showing the selected seller's items (par. 0077), and to receive a user selection of a picture

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being displayed (par. 0104) and to redirect the client browser to an item document at a site associated with the selected image (par. 0108).

Trubey et al. does not disclose that such items are auction items or that such site is an auction site.

Hess et al., in a similar method (col. 5, lines 4-31; col. 9, lines 47-63; and Fig. 9), the implementation of a "Gallery" of items for sale for presentation to prospective purchasers responsive to a purchaser's requests and/or queries. Hess et al. teaches that such Gallery may be presented to a user in e-commerce environments, such as online shopping sites, auctioning sites, and the like (col. 3, lines 65-col. 4, line 5).

It would have been obvious to one of ordinary skill in the art to have provided the method of Trubey et al. for use in an auction site environment (as taught by Hess et al.) in order to have facilitated person-to-person commerce (such as an auction of the type taught by Hess et al.) by providing prospective buyers the ability to quickly preview items for sale (col. 2, lines 10-15).

In the combination of Trubey et al. and Hess et al., the functionality of receiving a request from a client browser for a main program would include receiving the request from an auction item document obtained from an auction site (in a manner similar

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to that disclosed by Trubey et al. (par. 0067)). Likewise, the set of selectable images would be displayed on the auction item document obtained from the auction site (in a manner similar to that disclosed by Trubey et al. (par. 0067)).

Trubey et al. discloses moveable display of the set of pictures horizontally in the client browser graphical window (par. 0075).

Trubey et al. discloses that the main program is configured to load and activate a categories module that maintains a set of categories available on the site from the specified seller (par. 0083).

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Trubey et al. (US 2002/0077930 A1) and Hess et al. (U.S. Patent No. 6,058,417), as applied to claim 1 above, and further in view of Official Notice regarding controllable speed being controlled by a current position of a pointing device.

Regarding claim 4, the combination of Trubey et al. and Hess et al. provides a module configured to moveably display the set of pictures at a controllable speed (Trubey et al.: par. 0077).

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The combination does not teach that the module is configured with the functionality wherein the controllable speed is controlled by a current position of a pointing device connected to the client computer.

The Examiner notes that the missing functionality is not recited as an active step of the method in which this functionality is positively invoked. The method recited is directed to a method of delivering the program and associated module, rather than a method of using such program and associated module. Accordingly, in a method of delivering, as recited, the functionality of the delivered program and associated module is of little patentable consequence in otherwise distinguishing the method of delivering recited and the method of delivering already taught by the combination of Trubey et al. and Hess et al.

Nonetheless, the Examiner takes Official Notice that such functionality is a well-known technique in the presentation of images for perusal by a client computer user. Such technique allows such user to move a cursor (receiving signals from a pointing device (e.g. a mouse) to "slow down" or "speed up" the automatic scrolling of images presented in a browser presentation--especially flash (Macromedia) enabled browser presentations.

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It would have been obvious to one of ordinary skill in the art to have provided the combination of Trubey et al. and Hess et al. to have included controllable speed of the type taught by the Official Notice in order to have allowed the client user to have perused the display of dynamic item images (already taught by Trubey et al.) at a comfortable client-user pace. Such pace would have allowed the client user to have quickly skipped past items in which they have no interest or to have stopped at items in which they have great interest providing an opportunity for deliberate study of such items.

Response to Arguments

Applicant remarks that Trubey does not teach or suggest the limitation "to obtain a set of selectable images of the selected seller's auction items".

The Examiner has admitted that Trubey does not teach auction items, *per se*. Such auction items are taught by Hess. Moreover, the Examiner appreciates Applicant's remarks directed to "selected seller". However, claim 1, for example, does not indicate in what manner a seller is "selected" or by whom. Accordingly, the selected seller may be one of the merchants that was selected as being appropriate to the content on the Web page being viewed by the user. This is just one example of

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how a seller may be considered selected. This example was specifically chosen to address Applicant's remarks directed to the same example. Other examples of the manner in which a seller may be considered "selected" could likewise have applied.

Applicant's comments regarding the presentation of a generalized product list to the user has been considered.

The Examiner believes that Trubey is not limited to this embodiment. Rather, Trubey discloses this form of presentation to be a default presentation if other attempts to generate a list are exhausted (par 0093).

Applicant remarks that "if the Examiner has a Macromedia reference that teaches the limitation, the Applicant be allowed to review it".

The Examiner notes that the mere request that the Examiner provide a reference showing the Noticed item does not amount to an adequate traversal of the rejection based on Official Notice. Absent any traversal of the rejection based on Official Notice, the Noticed item is taken as admitted prior art. See MPEP 2144.03(c).

Conclusion

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THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

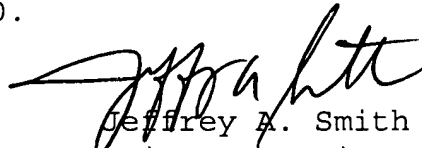
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey A. Smith whose telephone number is (571) 272-6763. The examiner can normally be reached on M-F 6:30am-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert M. Pond can be reached on 571-272-6760. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Jeffrey A. Smith
Primary Examiner
Art Unit 3625

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